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Paper No. 11

MAR 23 2000

In re Application of
Alain Zanco
Application No. 09/172,830
Filed: October 15, 1998
Attorney Docket No. 2348-348

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: DECISION ON PETITION
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This is a decision on the petition filed by facsimile transmission on March 3, 2000 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to file a reply to the Office letter dated July 30, 1999.

The petition is DISMISSED.

Petitioner alleges that a timely reply to the Office letter was in fact filed, together with a new poser of attorney and change of address, a certification under 37 CFR § 3.73(b) and a copy of an assignment document. Petitioner also alleges in the petition that these papers were filed in September, 1999. Petitioner further alleges that the petition is accompanied by proof of receipt of these papers by the Office. However, it appears that the only such proof filed with the petition is a copy of facsimile transmission confirmation listing these papers and indicating that the "Result" is "OK".

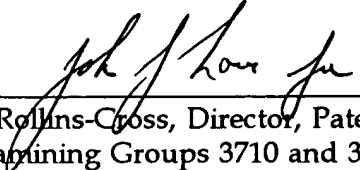
Correspondence is filed when received in the Office, 37 CFR § 1.6. The facsimile transmission confirmation sheet submitted with the petition merely indicates that a facsimile transmission was successfully transmitted, but does not serve as evidence of its timely receipt in the Office. While 37 CFR § 1.8(b)(3) makes reference to the use of a facsimile unit's report confirmation transmission as evidence to support a statement that the papers were in fact transmitted, 37 CFR § 1.8(b) is applicable by its terms only to papers filed in accordance with 37 CFR § 1.8(a), which requires that a certificate of mailing or of facsimile transmission (as is appropriate) be affixed to the correspondence. The copies of the correspondence submitted in support of the petition do not have a certificate of facsimile transmission affixed thereto.

Accordingly, there is presently no basis to find that a timely reply to the Office letter dated July 30, 1999 was in fact filed in the sense of having been received in the Office. The new power of attorney and change of address will be processed and given a date of March 3, 2000, the date of their receipt in the Office as part of the petition. Thereafter, the application will be returned

to storage as an abandoned file.

Any request for reconsideration of this decision must be filed within two months from the date of the decision, 37 CFR § 1.181(f).

PETITION DISMISSED.



E. Rollins-Cross, Director, Patent
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